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12 \* Admitted *Pro Hac Vice*

13 *Attorneys for Plaintiffs and the Putative Classes*

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 ROBERT JORDAN, SEAN HALBERT and  
17 DANA SKELTON, individually and on  
behalf of all others similarly situated,

18 *Plaintiffs,*

19 v.

20 NATIONSTAR MORTGAGE LLC, a  
Delaware limited liability company,

21 *Defendant.*

Case No. 3:14-cv-787

**PLAINTIFFS' NOTICE OF MOTION AND  
MOTION TO APPOINT INTERIM CO-  
LEAD CLASS COUNSEL**

Date: August 13, 2014

Time: 2:00 p.m.

Crtrm.: Courtroom 2, 17th Floor

PLEASE TAKE NOTICE THAT on Wednesday, August 13, 2014, at 2:00 pm or as soon thereafter as the matter may be heard in the courtroom of the Honorable William H. Orrick, located at 450 Golden Gate Avenue, San Francisco, California 94102, Plaintiffs Vanessa Ruggles, Robert Jordan, Sean Halbert, and Dana Skelton will move the Court to appoint interim co-lead class counsel in accordance with Federal Rule of Civil Procedure 23(G)(2).

This Motion is based upon this Notice, the Memorandum of Points and Authorities filed concurrently with this Motion, and all of the documents in the record, along with any oral argument as may be presented at the hearing on this Motion.

Dated: July 3, 2014

By: /s/ Steven L. Woodrow  
(One of Plaintiffs Jordan, Halbert, and Skelton's Attorneys)

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
PLAINTIFFS' MOTION TO CONSOLIDATE RELATED CASES  
AND APPOINT INTERIM CLASS COUNSEL**

Plaintiffs Vanessa Ruggles, Robert Jordan, Dana Skelton, and Sean Halbert (collectively “Plaintiffs”) have filed two putative class action lawsuits against Defendant Nationstar (“Defendant” or “Nationstar”) challenging Nationstar’s repeated unsolicited telephone calls under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). Following discussions of counsel, the attorneys for the Plaintiffs have reached an agreement to self order through the appointment of interim co-lead class counsel and the creation of an official executive committee. Accordingly, and pursuant to Federal Rule of Civil Procedure 23(g)(2), Plaintiffs respectfully move this Court to appoint interim co-lead class counsel as follows:

**I. INTRODUCTION**

Nationstar—one of the Country’s largest residential mortgage loan servicers—calls consumers’ cell phones and home phones without consent and with the use of artificial, pre-recorded voices in violation of the TCPA. Two putative class action lawsuits have been filed at this time. On May 16, 2014, the United States District Court for the Central District of California issued an Order deeming the class action lawsuit styled *Ruggles v. Nationstar Mortgage, LLC*, Case No. 5:14-cv-00363, related to the above-captioned class action lawsuit styled *Jordan v. Nationstar, LLC*, Case No. 5:14-cv-00363 (collectively, the “Actions”) and transferred the *Ruggles* case to this District. (*Ruggles* Dkt. 16.) Upon receipt, the *Ruggles* matter was re-numbered as Case No. 3:14-cv-02301-MEJ.

Both the *Jordan* and *Ruggles* matters seek redress for substantially the same classes of people for essentially the same claims, are based on similar factual allegations, and are against the same defendant—Nationstar. At the case management conference held May 27, 2014, this Court granted Plaintiffs’ oral motion to consolidate the cases and allowed Plaintiffs to file a motion to file a consolidated complaint. (*See* Dkt. 27.) For purposes of judicial economy, the promotion of efficiency, and for the benefit of the putative classes, the Court should now appoint attorneys Jay Edelson and Steven Woodrow as interim co-lead class counsel in accordance with Fed. R. Civ. P. 23(g)(2) and approve the proposed Executive Committee. Nationstar, which will not be prejudiced

1 in any way, does not oppose the proposed leadership structure. As such, and as explained further  
 2 below, this Court should grant the instant motion.

## 3 **II. FACTUAL AND PROCEDURAL BACKGROUND**

4 The Actions seek redress for Nationstar's alleged violations of the TCPA. Specifically,  
 5 Nationstar calls consumers without permission on their cell phones using an automatic telephone  
 6 dialing system ("ATDS") or pre-recorded voice (violating § 227(b)(1)(A)(iii)) and on their  
 7 landline phones using a pre-recorded voice (in violation of § 227(b)(1)(A)(iii)).

### 8 **Jordan v. Nationstar, Case No. 3:14-cv-787**

9 On February 21, 2014, Plaintiffs Jordan, Halbert, and Skelton filed their putative class  
 10 action against Nationstar challenging violations of the TCPA. (*Jordan* Dkt. 1.) Plaintiffs sought to  
 11 represent themselves and three classes defined as:

12 **Cell Phone Class:** All individuals in the United States to whom Defendant (1)  
 13 placed a telephone call to his or her cellular telephone; (2) that was made utilizing  
 14 an automatic telephone dialing system; (3) which related to Defendant's products  
 15 or services; and (4) Defendant does not have a record of consent to place telephone  
 calls to his or her cellular telephone number.

16 **RoboCall Class:** All individuals in the United States to whom Defendant (1)  
 17 placed a telephone call that featured an artificial or pre-recorded voice; (2) which  
 related to Defendant's product or services; and (4) he or she never consented to  
 receive robocalls from Defendant at that telephone number.

18 **Opt-Out Class:** All individuals in the United States to whom Defendant (1) placed  
 19 a telephone call to his or her cellular telephone; (2) that was made utilizing an  
 20 automatic telephone dialing system; (3) which related to Defendant's products or  
 services; (4) and, following such calls, he or she made a request to Defendant that  
 he or she no longer receive telephone calls from Defendant; and thereafter, (5)  
 Defendant placed additional telephone calls to his or her cellular telephone.

21 (*Jordan* Compl. ¶ 41.) The *Jordan* Complaint contains similar counts to the *Ruggles* action,  
 22 namely violations of the TCPA resulting from unsolicited telephone calls made through the use of  
 23 an automated telephone dialing system to cellphones or using an artificial or pre-recorded voice.

24 Nationstar answered the Complaint on April 10, 2014, and asserted numerous affirmative  
 25 defenses. (*Jordan* Dkt. 13.) On May 1, 2014, Plaintiffs moved to strike all of Nationstar's  
 26 affirmative defenses. (*Jordan* Dkt. 20.) On May 14, 2014, and in contemplation of this Motion and  
 27 the transfer of the *Ruggles* case to this District, Plaintiffs withdrew their motion to strike without  
 28

1 prejudice pending the filing of a consolidated amended class action complaint and any re-asserted  
2 affirmative defenses by Nationstar. (*Jordan* Dkt. 24.)

3 **Ruggles v. Nationstar, Case No. 14-cv-2301**

4 On February 26, 2014, Plaintiff Ruggles filed a class action complaint against Nationstar in  
5 the Central District of California (case no. 5:14-cv-00363) alleging that Nationstar placed calls  
6 using an automated telephone dialing system to cellular telephone or used a prerecorded voice in  
7 violation of the TCPA. (*Ruggles* Dkt. 1.) Nationstar answered the Complaint on April 21, 2014  
8 and asserted numerous affirmative defenses similar to those Nationstar asserted in the *Jordan*  
9 case. (*Ruggles* Dkt. 12.)

10 Plaintiff Ruggles had sought to represent herself and a class defined as:

11 All persons within the United States who, four years prior to the date of filing of  
12 this complaint, received a non-emergency telephone call from Defendant to a  
13 cellular telephone through the use of an automatic telephone dialing system or an  
14 artificial or prerecorded voice and who did not provide express consent for such  
calls.

15 (*Ruggles* Compl. ¶ 21.)

16 On May 15, 2014, Ruggles and Nationstar filed a Joint Stipulation to Transfer Case to  
17 Northern District of California (*Ruggles* Dkt. 15.) The next day, May 16, 2014, the Central  
18 District of California issued an Order transferring the *Ruggles* case to this District, and, upon  
19 transfer, the *Ruggles* case was assigned case number 14-cv-2301. On May 27, 2014, this Court  
20 held the case management conference and thereafter entered an order relating the cases and  
21 granting Plaintiff leave to file a motion for a consolidated complaint and set a deadline for filing  
the consolidated complaint. (Dkt. 27.)

22 Thereafter, on June 23, 2014, Plaintiffs filed their Consolidated Class Action  
23 Complaint (“Consolidated Complaint”) (Dkt. 31.) The Consolidated Complaint sets forth  
24 four classes:

25 **No Mortgage Cell Phone Class:** All individuals in the United States to whom  
26 Defendant (1) placed a non-emergency telephone call to his or her cellular  
27 telephone from February 21, 2010 to the present; (2) that was made utilizing an  
28 automatic telephone dialing system and / or a prerecorded or artificial voice; (3)  
which related to Defendant’s products or services; (4) where Defendant does not  
have a record of consent to place telephone calls to his or her cellular telephone

1 number; and (5) who did not have a mortgage loan serviced or owned by Nationstar  
2 when the call was made.

3 **Mortgage Cell Phone Class:** All individuals in the United States to whom  
4 Defendant (1) placed a non-emergency telephone call to his or her cellular  
5 telephone from February 21, 2010 to the present; (2) that was made utilizing an  
6 automatic telephone dialing system and / or by a prerecorded or artificial voice; (3)  
7 which related to Defendant's products or services; (4) where Defendant does not  
8 have a record of consent to place telephone calls to his or her cellular telephone  
9 number; and (5) who had a mortgage loan serviced or owned by Nationstar when  
10 the call was made.

11 **Opt-Out Class:** All individuals in the United States to whom Defendant (1) placed  
12 a non-emergency telephone call to his or her cellular telephone from February 21,  
13 2010 to the present; (2) that was made utilizing an automatic telephone dialing  
14 system and / or a prerecorded or artificial voice; (3) which related to Defendant's  
15 products or services; (4) and, following such calls, he or she made a request to  
16 Defendant that he or she no longer receive telephone calls from Defendant; and (5)  
17 thereafter Defendant placed additional telephone calls to his or her cellular  
18 telephone.

19 **Landline Class:** All individuals in the United States to whom Defendant (1) placed  
20 a non-emergency telephone call to his or her residential landline phone from  
21 February 21, 2010 to the present; (2) that was made utilizing a prerecorded or  
22 artificial voice; (3) which related to Defendant's product or services; (4) where  
23 Defendant does not have a record of consent to place telephone calls to his or her  
24 landline telephone number, and (5) who did not have a mortgage loan serviced or  
25 owned by Nationstar when the call was made.

26 (Consolidated Compl. ¶ 58.)

### 27 **Discussions of Counsel**

28 Shortly following the filing of these actions, counsel for the Plaintiffs met and conferred  
regarding the similarity of the two cases. Through these talks, Plaintiffs' counsel discussed the  
potential for seeking to have the cases deem related and the filing of a consolidated pleading. The  
discussions were fruitful and counsel were ultimately able to self order and reach agreement on a  
proposed leadership structure. As explained below, this Court should approve of counsels'  
proposed structure by appointing attorneys Jay Edelson and Steven Woodrow as interim co-lead  
class counsel and by approving an official Executive Committee consisting of attorneys Michael  
Sousa, Doug Campion, and Matthew English.

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### 1 III. ARGUMENT

#### 2 A. Appointing Interim Co-Lead Class Counsel Is Appropriate Under Federal 3 Rule 23(g) And Will Protect The Interests Of The Putative Class.

4 Rule 23(g)(3) of the Federal Rules of Civil Procedure provides that a court “may designate  
5 interim counsel to act on behalf of the putative class before determining whether to certify the  
6 action as a class action.” Fed. R. Civ. P. 23(g)(3). As explained in the Manual for Complex  
7 Litigation, where, as here, there are multiple class actions pending, appointment of interim class  
8 counsel “is necessary to protect the interests of class members” because it “clarifies responsibility  
9 for protecting the interests of the class during precertification activities, such as making and  
10 responding to motions, conducting any necessary discovery, moving for class certification, and  
11 negotiating settlement.” *MCL*, § 21.11.

12 Plaintiffs propose that the Court appoint Jay Edelson and Steven L. Woodrow of Edelson  
13 PC interim co-lead class counsel. Attorneys appointed to serve as interim class counsel “must  
14 fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(4). Although Rule  
15 23 does not explicitly state what standards apply when appointing interim class counsel, courts  
16 have applied the factors set forth in Rule 23(g)(1)(A), which require a showing of: (1) the work  
17 counsel has done in identifying or investigating potential claims in the action, (2) counsel’s  
18 experience in handling class actions, other complex litigation, and claims of the type asserted in  
19 the action, and counsel’s knowledge of the applicable law, (3) counsel’s knowledge of the  
20 applicable law, and (4) the resources counsel will commit to representing the class. *See Levitte v.*  
21 *Google, Inc.*, C 08-03369 JW, 2009 WL 482252 at \*2 (N.D. Cal. Feb. 25, 2009). No single factor  
22 is determinative; rather, all factors must be considered. *See* Advisory Committee Notes to the  
23 2003 Amendments to Fed. R. Civ. P. 23(g)(4).

24 As set forth below, the attorneys involved satisfy each of these criteria and are committed  
25 to fairly and adequately representing the interests of the class.

#### 26 1. Proposed interim co-lead class counsel have taken significant steps to 27 advance this litigation and to identify and investigate the claims.

28 Proposed interim co-lead class counsel have already taken significant steps to identify and  
investigate Plaintiffs’ claims and to advance this litigation. Prior to filing suit, Edelson and



Woodrow and other attorneys at Edelson PC conducted an extensive investigation into Nationstar's practices of making telephone calls allegedly in violation of the TCPA. This has included speaking with dozens of Nationstar borrowers who claim they have been harassed by Nationstar's practices as well as an investigation into Nationstar's business model, its acquisition of loans from banks and other large financial institutions, and its loan servicing practices. Counsel have also advanced the *Jordan* case procedurally through the filing of a motion to strike affirmative defenses and have met and conferred with Nationstar's counsel to engage in a Rule 26(f) conference and discuss the litigation more generally. In short, proposed interim co-lead counsel have investigated the claims sufficiently to support their appointment.

**2. Proposed interim co-lead class counsel have extensive complex class action experience with respect to TCPA class actions and class actions against national mortgage servicers.**

Proposed interim lead counsel have represented plaintiffs in class actions for many years, specializing in complex litigation that includes federal multidistrict litigation. As shown in their attached Firm Resume, the attorneys of Edelson PC have extensive experience prosecuting TCPA class actions and have reached multi-million dollar settlements on behalf of aggrieved TCPA consumers. (See "Edelson PC Firm Resume," attached as Ex. A.) Among their many victories, Edelson lawyers were on the legal team that helped secure the landmark TCPA decision in *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 952 (9th Cir. 2009). Likewise, the firm's Banking and Financial Services Practices Group has prosecuted nationwide class action lawsuits against major banks including JPMorgan Chase Bank, N.A., Wells Fargo Bank, N.A., Citibank, N.A., as well as against national mortgage servicers such as Nationstar, Ocwen, and Green Tree related to their loan servicing practices. As such, the Court should have little difficulty finding that proposed co-lead interim class counsel have the requisite experience and track-record to successfully prosecute the instant action.

**3. Proposed interim co-lead class counsel have extensive knowledge of the TCPA and laws applicable to nationwide mortgage servicers.**

Through their extensive experience prosecuting nationwide class actions under the TCPA as well as claims against large mortgage servicers like Nationstar proposed interim co-lead class

counsel have gained an intimate familiarity with the laws at issue in this case. Again, proposed interim co-lead class counsel have helped shape the current laws and interpretations of the TCPA through their many formative lawsuits in this area. Likewise, by virtue of their litigation against national banks and mortgage servicers, proposed interim co-lead class counsel have gained in-depth knowledge of the laws affecting such servicers in addition to the TCPA including the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, and other laws. Proposed interim co-lead class counsel plainly have the requisite understanding of the applicable laws and legal principals at issue.

**4. Proposed interim co-lead class counsel have and will commit the resources necessary to advance and successfully prosecute this litigation.**

With respect to the final consideration, Proposed interim co-lead class counsel are committed to providing the resources required to prosecute this litigation through all phases, including rigorous motion practice, discovery, class certification, summary judgment, and trial. Edelson PC has highly experienced attorneys and support staff and are skilled at dealing cooperatively with each other to maximize efficiency and avoid unnecessary costs and expenses. Proposed interim co-lead class counsel are intimately familiar with the costs associated with successfully prosecuting TCPA class actions (as well as actions against national mortgage servicers) and will ensure that sufficient resources are expended pursuing the instant claims.

In sum, proposed interim co-lead class counsel have already thoroughly researched and advanced the claims alleged in the pleadings, have extensive experience prosecuting the very claims that are at issue in these actions, and are committed to expending the resources necessary to ensure that the interests of the putative class members are adequately represented. The Court should approve their appointment as interim co-lead class counsel accordingly.

**B. Plaintiffs and Putative Class Members Will Benefit From a Multi-Firm Structure.**

In addition to the appointment of interim co-lead class counsel, the proposed leadership structure would include the establishment of an official Executive Committee. Including multiple firms helps benefit putative class members through combined resources. “Court[s] should be

1 cognizant of the possibility that the class could benefit from the combined resources and expertise  
 2 of a number of class counsel . . . .” Third Circuit Task Force Report on Selection of Class Counsel,  
 3 208 F.R.D. 340, 417 (2002) (footnote omitted); *see also* MCL, § 10.221 (noting benefit to having  
 4 multiple counsel in large class action cases). For these reasons, federal district courts frequently  
 5 approve multi-firm structures in complex class actions. *See, e.g., In Re Hydrogen Peroxide*  
 6 *Antitrust Litig.*, 240 F.R.D. 163, 177 (E.D. Pa. 2007) (appointing four-firm structure); *In re Oxford*  
 7 *Health Plans, Inc. Sec. Litig.*, 182 F.R.D. 42, 46, 49 (S.D.N.Y. 1998) (approving multiple counsel  
 8 arrangement, finding that pooling of resources and experience was advantageous given the  
 9 “magnitude” of the class action and to “ensure that the litigation will proceed expeditiously  
 10 against Oxford and the experienced counsel it has retained to represent it”); *see also In re Intel*  
 11 *Corp. Microprocessor Antitrust Litig.*, MDL No. 05-1717 (D. Del. Apr. 18, 2006), Order  
 12 Appointing Co-Lead Counsel, at \*3 (appointing multi-firm structure that allows “drawing upon a  
 13 greater pool of resources” which “could prove to be especially beneficial in a large and complex  
 14 case such as this.”)

15       Applied here, the establishment of an executive committee would significantly aid in the  
 16 success and efficient management of a case of this size and magnitude. The instant lawsuit  
 17 presents many complex legal and factual issues regarding Nationstar’s placement of harassing  
 18 telephone calls, its methods for obtaining those phone numbers in the first instance, the purpose of  
 19 its calls, the Court’s jurisdiction to hear and adjudicate the class members’ claims, and the ability  
 20 of the case to be maintained as a class action. Further, Nationstar is one of the largest mortgage  
 21 servicers in the Country, represented by a highly experienced defense firm with the resources and  
 22 staff to defend the case. Documents produced in this case will likely be voluminous and will  
 23 require knowledgeable persons to review them in a concentrated period of time. In addition, there  
 24 will be extensive motion practice and a complicated path to settlement or trial. Needless to say,  
 25 mounting a successful prosecution will require a concerted and organized effort—all of which can  
 26 be ensured through the recognition of a formal executive committee.

27       Without belaboring the point, Plaintiffs’ proposed leadership structure is comprised of  
 28 attorneys with a proven commitment to responsible advocacy in consumer protection and class

1 action matters—specifically with respect to TCPA cases like the instant actions. Together, the  
 2 firms of both proposed interim co-lead class counsel as well as those slated for service on the  
 3 executive committee offer the benefits of efficiency and experience that the complexity of the case  
 4 demands. Simply put, under the facts presented in this instance, Plaintiffs and the putative Class  
 5 members will have the best opportunity for success if they have the benefit of the combined  
 6 experience, knowledge, and resources of the proposed lawyers and law firms.

7 Plaintiffs’ counsel has spoken with Nationstar’s counsel, and Nationstar’s counsel has no  
 8 objection to the relief sought in this Motion.

#### 9 **IV. CONCLUSION**

10 Although in certain cases multiple class actions merely invites in-fighting amongst the  
 11 Plaintiffs’ lawyers, here the attorneys for the Plaintiffs and the putative classes have managed to  
 12 self-order in a way that will lead to the efficient prosecution and resolution of this case. As such,  
 13 the Court should have little difficulty appointing Jay Edelson and Steven Woodrow of Edelson PC  
 14 as interim co-lead class counsel and recognizing an executive committee comprised of Michael  
 15 Sousa, Doug Campion, and Matthew English.

16 WHEREFORE, in the interests of judicial economy and for the reasons set forth above,  
 17 Plaintiffs Vanessa Ruggles, Robert Jordan, Sean Halbert, and Dana Skelton respectfully request  
 18 that the Court appoint Jay Edelson and Steven Woodrow of Edelson PC as interim co-lead class  
 19 counsel and Michael Sousa, Doug Campion, and Matthew English to serve on the executive  
 20 committee.

21 Date: July 3, 2014

22 By: /s/ Steven L. Woodrow

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**CERTIFICATE OF SERVICE**

I, Steven L. Woodrow, hereby certify that on July 3, 2014, I electronically filed the foregoing *Plaintiff's Notice of Motion and Motion to Appoint Interim Co-Lead Class Counsel* with the Clerk of the Court using the CM/ECF system. Notice of this filing is sent to the following counsel of record by operation of the Court's electronic filing system:

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/s/ Steven L. Woodrow